IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH
S.B. Civil Writ Petition No.1916/99
Om Prakash
Vs.
State of Raj. & Ors.

5.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri V.K. Soni for petitioner.
Shri B.L. Awasthi, Addl. GA for State.
Shri Madhav Mitra for respondent no.4

REPORTABLE

Heard learned counsel for the parties.

The petitioner has filed this writ petition with the prayer that the order dated 16.2.1999 passed by the respondent no.4 namely, the State Transport Authority, Haryana be quashed and it be directed to counter sign the permit No. (R.S.5.9.) 1395 dated 28.1.99

issued in favour of the petitioner in the route Khetri to Rohtak viz Nizampur, Narnaul, Mahendragarh, Dadri existing inter state route and should be further directed to allow him to ply the bus on the basis of the permit held by him.

I have heard Shri V.K. Soni and Shri B.L. Awasthi, Addl. GA for State.

According to Shri V.K. Soni, the petitioner had to suffer on account of inaction on the part of the respondents to exercise their jurisdiction. Section 88 provides that that the draft of an agreement is required to be published in the official gazette. Once the agreement has been published, now the respondents have no jurisdiction to either refuse or to linger on the matter regarding counter signatures of the permit. According to

him giving counter signature on the permit granted to the petitioner amount to snatching the right of the petitioner to livelihood guaranteed under Article 21 of the Constitution of India and also in violation of Article 19(1)(g). He submits that the State of Haryana is granting countersignatures on large number of other routes under the agreement finalised on 15.7.97/22.7.1997, however the application of the petitioner alone was not considered in the manner. He contested the claim of the respondent no.4 that grant of permit to the petitioner was outside the scope fixed in the agreement dated 15.7.1997. The permit was granted to the petitioner within the scope fixed under the agreement by the Regional Transport Authority, Jaipur

under its order dated 26.12.1998. As the permit granted to the petitioner was covered by the agreement, the respondents are not justified in refusing to counter sign the same. Although the State of Rajasthan and its authorities have also been impleaded as party but the contest is basically between the petitioner and the State Transport Authority, Haryana who has separately filed its reply. In the reply an objection has been raised as to the territorial jurisdiction of this Court and it has been submitted that the refusal of the counter signature could give rise to the cause of action within the territorial jurisdiction of the Punjab & Haryana High Court. Even otherwise, the appeal lies against the refusal to give countersignature to State

Transport Appellate Authority in the State of Haryana. Reference has been made to the judgment of this Court in S.B. Civil Writ petition No.903/99 and a bunch of twenty petitions which were dismissed for want of territorial jurisdiction while upholding similar objection. On merits it has been submitted that as per the inter state agreement entered into between the two States on 9.7.97 and notified in the official gazette on 15.7.97, scope of four single single trips against four permits has been provided at serial No.74 in Annexure 2 of the agreement. The state authorities in Rajasthan have issued large number of permits over and above the limit fixed under the reciprocal agreement. The State of Haryana therefore granted the counter

signature on first come first serve basis to four permit holders on the route of Khetri to Rohtak via Nizampur, Naraul, Mahendragarh, Dadri. Reliance has been placed on the judgment of this Court in Zamindara Motor Cooperative Transport Society vs. RTA Bikaner and State of Haryana in S.B. Civil Writ Petition No.3313/98. Reliance has also been placed on the judgment of Punjab & Haryana High Court in Civil Writ Petition No.15416/95, Rajendra Parshad Vs. State of Haryana & Ors. It is therefore prayed that the writ petition be dismissed.

I have given my thoughtful consideration to the argument advanced by learned counsel for the parties and perused and material on record.

This Court in Zamindara Motor

Cooperative Transport Society (supra) on consideration of somewhat similar fact situation held as under:-

> *"Thus, in this fact situation, it is desirable that the petition be disposed off by issuing direction to the authorities not to consider any application and/or counter-signature over and above the ceiling fixed by the inter-state agreement. The petitions are disposed off accordingly. However, the authorities are directed to consider the applications pending for grant of permit/counter-signature, if any, within the ceiling fixed by the inter-state agreement. No order as to costs."*

Similar controversy when arose before the Punjab & Haryana High Court in Rajendra Parshad (supra), that Court also took the same view while observing as

under:-

> *"The norms of reciprocity are to be worked out by the State Government by keeping in view their own interests. As per the earlier agreement, only one permit was supposed to be countersigned by the State of Haryana which has already been countersigned. If the State Transport Authority of Jaipur had issued any permit in excess of the fixed norms or agreement executed between the States Haryana and Rajasthan, the former State is not duty bound to counter-sign such permit. The State of Haryana has to see its own interest before granting permission to ply a bus in its own State. There could be several valid considerations on the part of State of Haryana whether such like permit issued by the authority of Jaipur would be in*

any way prejudice the interest of Haryana or not and whether it would infringed the monopolistic rights of the State of Haryana with respect to the various routes within the State."

In the light of the fact that the respondents have asserted that there is scope of only four permits and they have countersigned four permits on first come and first serve basis, I do not find that action of the respondents suffer from any infirmity so as to warrant interference by this Court in exercise of its powers under Article 226 of the Constitution of India.

There being no merit in the petition, the same stands dismissed with no order as to costs.

RS/

(Mohammad Rafiq),J.